

1      Noelle E. Dwarzski, WSBA #40041  
2      McKENZIE ROTHWELL BARLOW  
3      & COUGHRAN, P.S.  
4      1325 Fourth Ave Suite 910  
5      Seattle, WA 98101  
6      Telephone: (206) 224-9900  
7      Facsimile: (206) 224-9820  
8      E-mail: noelled@mrbclaw.com

9  
10     UNITED STATES DISTRICT COURT  
11     WESTERN DISTRICT OF WASHINGTON  
12     AT SEATTLE

13     BOARDS OF TRUSTEES OF THE  
14     NORTHWEST IRONWORKERS HEALTH  
15     AND SECURITY FUND, NORTHWEST  
16     IRONWORKERS EMPLOYERS  
17     VACATION TRUST, NORTHWEST  
18     IRONWORKERS RETIREMENT TRUST,  
19     NORTHWEST FIELD IRONWORKERS  
20     ANNUITY TRUST FUND, and  
21     NORTHWEST IRONWORKERS &  
22     EMPLOYERS APPRENTICESHIP &  
23     TRAINING TRUST FUND,

24                        Plaintiffs,

25                        v.  
26     ROGUE IRONWORKS LLC, a  
27     Washington limited liability company,  
28     Contractor's License No.  
29     ROGUEIL842DN, UBI No. 603590764,

30                        Defendant.

31                        NO.

32                        COMPLAINT FOR BREACH OF  
33                        COLLECTIVE BARGAINING  
34                        AGREEMENT AND TO ENFORCE  
35                        TERMS OF TRUST AGREEMENTS

36     The plaintiffs allege as follows:

37     COMPLAINT– 1

38     2900 067 tb281202

39     McKENZIE ROTHWELL BARLOW  
40     & COUGHRAN, P.S.  
41     1325 FOURTH AVE, SUITE 910  
42     SEATTLE, WA 98101  
43     (206) 224-9900

1                   I.        PARTIES, JURISDICTION & VENUE

2                  1. Plaintiffs are the Boards of Trustees of the Northwest Ironworkers Health and  
3 Security Fund, Northwest Ironworkers Employers Vacation Trust, Northwest Ironworkers  
4 Retirement Trust, Northwest Field Ironworkers Annuity Trust Fund, and Northwest  
5 Ironworkers & Employers Apprenticeship & Training Trust Fund (hereafter the “Trust  
6 Funds”).

7                  2. The Trust Funds are joint labor-management trust funds created under Section  
8 302(c) of the Labor Management Relations Act (“the Act”), 29 U.S.C. § 186(c) and the  
9 Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §1001, *et seq.* as  
10 amended.

11                 3. Rogue Ironworks LLC (hereafter “Rogue”) is a Washington corporation with  
12 its principal offices located at 3080 NW Innovative Way, Poulsbo, Washington 98370  
13 engaged in business within the jurisdiction of the court, and such business affects commerce  
14 within the meaning of Section 301(a) of the Act.

15                 4. Jurisdiction over all ERISA claims and venue are conferred on this court by the  
16 Trust Agreements and Section 502 of ERISA, 29 U.S.C. §1132.

17                 5. Venue is appropriate in the United States District Court for the Western  
18 District of Washington, Division of Seattle, King County under ERISA § 502(e)(2), 29  
19 U.S.C. §1132(e)(2).

20                 6. ERISA §502, 29 U.S.C. §1132 provides that suit may be brought to enforce the  
21 terms of the Trust Agreements and for the collection of delinquent contributions.  
22

**COMPLAINT– 2**

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II. FIRST CLAIM FOR RELIEF: BREACH OF COLLECTIVE BARGAINING AGREEMENT/DELINQUENT CONTRIBUTIONS

7. The Trust Funds re-allege the facts set forth in paragraphs 1 through 6 above as if stated fully herein, and further allege as follows:

8. At all material times, Rogue has been signatory to a collective bargaining agreement (“CBA”) with the District Council of Iron Workers of the Pacific Northwest, and associated Iron Workers Local Unions, which incorporates by reference the Trust Agreements for Trust Funds.

9. The CBA and Trust Agreements require Rogue to make contributions to the Trusts on behalf of covered employees.

10. At all material times, Rogue has employed employees for whom employee contributions and/or withheld wages are due under the CBAs.

11. At all material times, Rogue has failed and/or refused to timely make required monthly contributions for such employees to the Trust Funds for the delinquent period of November 2017 through current.

12. Rogue owes \$30,783.12 in contributions to the Trust Funds for the delinquent month of December 2017.

13. Rogue owes an unknown amount of contributions for January 2018 through current. The final amount will be proven on motions or at trial.

14. Under the terms of the CBAs, Trust Agreements and ERISA section 502(g)(2),  
Rogue is obligated to pay liquidated damages, interest, reasonable attorney's fees, and costs  
and expenses of suit.

## **COMPLAINT– 3**

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1       15.   Rogue failed to make timely payment of its November and December 2017  
2 contributions resulting in \$9,147.61 in liquidated damages, \$1,732.92 in interest (calculated  
3 through March 5, 2018), and \$200 in referral attorney fees.

4       16.   Rogue owes an unknown amount in contributions, liquidated damages, interest,  
5 and referral attorney fees for the delinquent period of January 2018 through current. The final  
6 amount will be proven on motions or at trial.

7       III.   SECOND CLAIM FOR RELIEF: DEMAND FOR AUDIT OF PAYROLL  
8                   RECORDS

9       17.   The Trust Funds re-allege the facts set forth in paragraphs 1 through 16 above  
10 as if stated fully herein, and further allege as follows:

11       18.   At all material times, Rogue, was, and is, obligated to perform in accordance  
12 with the terms of the CBAs, and the incorporated Trust Agreements.

13       19.   Rogue's CBA, and the incorporated Trust Agreements, authorize the Trust  
14 Funds to audit contributing employers' books and records.

15       20.   ERISA permits a fiduciary to bring suit to bring redress violations of the Trust  
16 Agreement or enforce provisions of the Trust Agreement. ERISA § 502(a)(3), 29 U.S.C.  
17 § 1132(a)(3).

18       21.   Pursuant to ERISA and the Trust Agreements, the Boards of Trustees are  
19 entitled to an award from this Court ordering Rogue to turn over its documents and payroll  
20 records necessary to complete an audit of its payroll records for the period of September 2017  
21 through current and otherwise comply with the payroll audit provision of the Trust  
22 Agreements.

COMPLAINT– 4

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1           22. The Boards of Trustees request documents and payroll records necessary to  
2 complete an audit of Rogue's books and records for the period of September 2017 through  
3 current.

4                          IV. PRAYER FOR RELIEF

5           The Trust Funds pray for judgment as follows:

- 6           A. Against Rogue Ironworks LLC for \$41,863.64 comprised of \$30,783.12 in  
7 contributions, \$9,147.61 in liquidated damages, \$1,732.92 in interest  
8 (calculated through March 5, 2018), and \$200 in referral attorney fees for the  
9 delinquent months of November and December 2017;
- 10          B. Against Rogue Ironworks LLC for all amounts found to be due and owing for  
11 January 2018 through current;
- 12          C. An order requiring Rogue Ironworks, LLC to submit to an audit and provide  
13 all the documents and payroll records necessary to complete an audit of its  
14 books and records for the period of September 2017 through current;
- 15          D. Against Rogue Ironworks LLC for all amounts found to be due and owing for  
16 the audit period of September 2017 through current;
- 17          E. For reasonable attorneys' fees, costs, and expenses of suit; and
- 18          F. For such other and further relief as this court deems just and equitable.

19                          DATED this 5<sup>th</sup> day of March, 2018.

20                          */s/ Noelle E. Dwarzski*

21                          Noelle E. Dwarzski, WSBA #40041

22                          McKENZIE ROTHWELL BARLOW

                        & COUGHRAN, P.S.

                        Attorneys for Plaintiff Trusts

                        1325 Fourth Ave., Suite 910, Seattle, WA 98101

COMPLAINT– 5

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